

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARK O’FEE,	:	
	:	
Plaintiff,	:	
	:	CIVIL ACTION
v.	:	
	:	
THE CITY OF PHILADELPHIA, SHAWN TRUSH, SYLVESTER JOHNSON, WILLIAM COLARULO, and DANIEL BARTLETT,	:	
	:	No. 09-2724
	:	
Defendants.	:	
	:	

ORDER

AND NOW, this 2nd day of October, 2009, upon consideration of Defendants’ Motion to Dismiss Plaintiff’s Complaint in Part Pursuant to Rule 12(b)(6) (Doc. No. 7), it is hereby **ORDERED** as follows:

- 1) the Motion is **GRANTED IN PART** and **DENIED IN PART**;
- 2) the Motion is **GRANTED** with respect to the conspiracy claims under 42 U.S.C. § 1985, the Equal Protection retaliation claim and the claim for wrongful use of civil process pursuant to 42 Pa.C.S. § 8351 et seq. (“Dragonetti Act”), and **DENIED** in all other respects;
- 3) the conspiracy claims pursuant to 42 U.S.C. § 1985 are **DISMISSED**;
- 4) the Equal Protection retaliation claim is **DISMISSED**;
- 5) the claim for wrongful use of civil process pursuant to the Dragonetti Act is **DISMISSED**;
- 6) Count III (erroneously titled “COUNTI III”), which includes Paragraphs 60

- through 69, is **STRICKEN** from Plaintiff's Amended Complaint;
- 7) Paragraph 50 is **STRICKEN** from Plaintiff's Amended Complaint;
 - 8) the language reading "Plaintiff is a member of a protected class" is **STRICKEN** from Paragraph 18 from Plaintiff's Amended Complaint;
 - 9) the language reading "in furtherance of the agreement" is **STRICKEN** from Paragraph 36;
 - 10) the language reading "acted in concert" is **STRICKEN** from Paragraph 37;
 - 11) the language reading "in furtherance of the agreement, common plan or goal" is **STRICKEN** from Paragraph 51; and
 - 12) the language reading "Dragonetti Claim for Abuse of Process" is **STRICKEN** from the heading of Count V.

BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY
SENIOR JUDGE